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Agenda item 75
Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Sixty-second year

Identical letters dated 28 September 2007 from the Permanent Representative of Croatia to the United Nations addressed to the Secretary-General and the President of the Security Council

I would like to bring to your attention a letter from Ivo Sanader, Prime Minister of the Republic of Croatia (see annex) and to request your kind assistance in circulating it as a document of the General Assembly, under agenda item 75, and of the Security Council.

(*Signed*) Mirjana **Mladineo**
Ambassador
Permanent Representative

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Annex to the identical letters dated 28 September 2007 from the Permanent Representative of Croatia to the United Nations addressed to the Secretary-General and the President of the Security Council

It was with profound disappointment and astonishment that I learned about the Judgment of the Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia (ICTY) delivered on 27 September 2007. The sentences for former senior officers of the Yugoslav People's Army (JNA) for the war crimes committed in the Republic of Croatia in 1991 — Mile Mrkšić to 20 years' imprisonment, Veselin Šljivančanin to 5 years' imprisonment and acquittal for the third accused, Miroslav Radić — stand in blatant disparity with the historical facts surrounding their misconduct.

The Republic of Croatia cannot remain silent while justice is ignored by the very institution established to serve it. The main goal of ICTY is to provide justice and ease the pain in the souls of those who have suffered so much and are now trying to find solace after all the hardship they have gone through. Therefore, impartiality, fairness and absence of any prejudice must be the guiding principles of ICTY and the bedrock of every verdict. Yesterday, unfortunately, this was not the case.

Vukovar and Ovčara are places where the worst war crimes in the territory of the Republic of Croatia were committed during the Homeland War, and along with Srebrenica and Sarajevo they are internationally recognized symbols of the war and destruction brought upon the innocent victims of the Milošević regime's aggression. In Ovčara, on 20 November 1991, after the brutal siege of Vukovar by the JNA and Serb paramilitary forces, 264 patients from the Vukovar Hospital were tortured and killed in cold blood. For Croatia, Ovčara stands as the icon of our struggle and suffering, a place of deep sorrow but also one of sublime pride and eternal remembrance. No Croatian Government shall ever allow Ovčara's memory to be stained and disrespected. With a heavy heart I have to state that the above-mentioned ICTY judgement is doing precisely that.

At the time of the crime, Mile Mrkšić was a Colonel in the JNA and commander of all Serb forces, including JNA, in the Vukovar theatre of war; Veselin Šljivančanin was a Major in the JNA and head of the JNA security organ and was thus empowered to select people for execution from among the captured and wounded in Vukovar; Miroslav Radić was a JNA Captain and commander of the company that took part in the occupation of Vukovar Hospital. All three were charged with crimes against humanity and war crimes for their alleged participation in a joint criminal enterprise whose goal was to mistreat and murder patients from the Vukovar Hospital. All the events that took place during the siege of Vukovar and in Ovčara are well documented and known to ICTY and United Nations Member States. I would just like to recall that the first written evidence on the Ovčara war crimes was submitted to the Security Council as early as 27 May 1994 in the final report of the Commission of Experts established pursuant to Security Council resolution 780 (1992), annexed to the letter addressed to the President of the Security Council (S/1994/674). Since then, numerous additional facts regarding this heinous crime have been collected and submitted to the Tribunal, more than sufficient to provide for an appropriate judgement.

I will not elaborate upon the legal inconsistencies of this shameful verdict, but rather leave this to the appeal process that shall follow. Instead, I want to emphasize that the Republic of Croatia was one of the founders of ICTY and a firm supporter of United Nations Security Council resolutions 808 (1993) and 827 (1993), through which the Tribunal was established for "the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia". Today I cannot but openly question whether this sole purpose has been well served.

From the very beginning Croatia has been supporting ICTY activities aimed at spearheading the shift from impunity to accountability, establishing the facts beyond any doubt and strengthening international law and the rule of law. In this respect, the Croatian Government has made constant efforts to encourage the work of the institution devoted to the implementation of criminal adjudication for the purpose of international fairness that shall overcome double standards and cynical political engineering. ICTY should serve as the voice of victims, protector of their dignity and healer of their wounds. Through its latest judgement, ICTY has failed to serve any of these principles, and has fallen short of all of the assigned goals.

From the first days after the establishment of the Tribunal, the Croatian Government has actively cooperated with the Chambers and the Office of the Prosecutor. In this way, Croatia has significantly helped to cast light on the events that are the subject of the indictments and the investigations. Croatia has fulfilled all its obligations towards ICTY and expects nothing less from the Tribunal in regard to when it comes to the ICTY obligation to serve justice and justice alone.

Croatia will deliver its position on the matter in detail during the upcoming debate in the General Assembly under agenda item 75 ("Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991"), as well as in the Security Council under the same agenda item. The time has come to seriously re-examine all aspects of the work of ICTY, in particular against the background of its failure to serve justice in an even, balanced and impartial way. This is of paramount importance for the future of international criminal justice.

I request that the present letter be circulated as a document of the General Assembly, under agenda item 75, and of the Security Council, and that it be urgently brought to the attention of the United Nations Member States.

(*Signed*) Ivo **Sanader**
President of the Government of the Republic of Croatia

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Sixty-second session
Agenda item 161
Financing of the African Union-United Nations Hybrid Operation in Darfur

Letter dated 2 October 2007 from the Secretary-General to the President of the General Assembly

The implementation of Security Council resolution 1769 (2007) of 31 July 2007 establishing the African Union-United Nations Hybrid Operation in Darfur (UNAMID), including the heavy and light support packages to the African Union Mission in the Sudan (AMIS) previously agreed, will require that management and command and control structures be established by the month of October 2007, and that the transfer of authority and responsibility for the support of AMIS be completed by 31 December 2007.

Despite best efforts to manage within existing modalities, to facilitate and support within the envisaged time frames the rapid deployment of military and civilian personnel and establish the necessary support infrastructure required in UNAMID, it is necessary for the Secretariat to exercise some flexibility in the application of administrative policies and procedures. I have the honour of informing Member States of the extraordinary measures that I have exceptionally authorized to enable the Secretariat to efficiently and effectively respond to the demands placed upon it in implementing Security Council resolution 1769 (2007). These measures include the following:

(a) The immediate reassignment of civilian personnel for key administrative positions without advertisement of the posts and with, as appropriate, existing delegations of authority, pending completion of the designation process under ST/SGB/2005/7 of 13 April 2005;

(b) The temporary duty assignment of civilian personnel, during which the staff member would, as a pilot initiative, temporarily encumber a UNAMID post, thereby enabling the releasing office to recruit a temporary replacement;

(c) The expedited transition of AMIS civilian personnel to UNAMID posts after a review of their qualifications against United Nations recruitment and grading standards;

(d) The provision of accommodation-provided mission subsistence allowance;

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(e) The conduct of a new mission subsistence allowance survey to ensure that special conditions in Darfur are properly assessed and a separate rate established for Darfur as necessary;

(f) The amendment of the existing policy on occasional recuperation break to provide travel time as required by UNAMID staff to exercise their full occasional recuperation break entitlement, taking into account the local transportation conditions;

(g) The deployment of troops provided by troop-contributing countries in advance of a signed memorandum of understanding based on broad signed agreements being reached by both parties on the composition of the force and the conditions of sustainment on the ground;

(h) The reimbursement of troop costs to troop-contributing Governments on a monthly basis for the period October to December 2007, subject to the availability of funds;

(i) An immediate increase, by up to 60 per cent, in the not-to-exceed level of existing main contracts of the United Nations Mission in the Sudan (UNMIS), including global systems contracts, to provide initial forward logistics support to UNAMID, until 31 March 2008. Such an increase should be subject to prior concurrence by the Department of Field Support and the Procurement Division and would be reviewed by the Headquarters Committee on Contracts on an ex-post-facto basis;

(j) The extension of existing systems contracts due to expire before 31 December 2007 for a period of one year, until 31 December 2008, with a corresponding increase in the not-to-exceed amount of those contracts, subject to favourable prior review by the Headquarters Committee on Contracts. This extension shall be exercised by 31 March 2008;

(k) The increase, until 31 March 2008, from $200,000 to $400,000 of the delegation of authority held by the Assistant Secretary-General for Mission Support exercisable in respect of UNAMID;

(l) The increase, until 31 March 2008, from $1 million to $2 million of the delegation of authority for the mission's core requirements for engineering materials, engineering services and lease of property, and the increase, until 31 March 2008, from $200,000 to $400,000 for all other requirements;

(m) Entering into non-competitive, single-source contract(s) for the provision of logistics support in the short term subject to a review by the Headquarters Committee on Contracts;

(n) Entering into non-competitive bidding for the letters of assist where the support required is immediate and the cost assessed, on the basis of previous similar cases, to be reasonable;

(o) Entering into non-competitive, single-source contracts for the provision of medical, real estate, and security-related equipment and services, as well as prefabricated buildings and water supply equipment, should insufficient time be available to follow normal procurement procedures. This provision would be subject to the concurrence of the Under-Secretary-General for Management and would be

submitted for a review by the Headquarters Committee on Contracts on an ex-post-facto basis;

(p) The exemption for UNAMID from Local Committee on Contracts procedures for a period of eight months, during which all cases shall be submitted through the Procurement Division to the Headquarters Committee on Contracts;

(q) Authorizing the redeployment of United Nations leased aircraft from other missions where the contracts have an optional clause for effecting deployment of the aircraft in the same mission or region.

The Security Council in its resolution 1769 (2007) decided that, no later than 31 December 2007, UNAMID will assume authority from AMIS with a view to achieving full operational capability and force strength as soon as possible thereafter, and requested the Secretary-General to put in place without delay the practical arrangements for deploying UNAMID including submitting to the General Assembly recommendations on funding and effective financial management and oversight mechanisms.

In this connection, on 9 August 2007 I requested (A/62/192) the inclusion in the agenda of the sixty-second session of the General Assembly of a supplementary item entitled "Financing of the African Union-United Nations Hybrid Operation in Darfur", to be allocated to the Fifth Committee of the General Assembly.

While my proposed budget for UNAMID for the 2007/08 financial period, including heavy support package requirements, is currently in preparation and will be submitted to the General Assembly for its consideration during the main part of its sixty-second session, I obtained on 8 August 2007, pursuant to section IV of General Assembly resolution 49/233 A, the concurrence of the Advisory Committee on Administrative and Budgetary Questions to enter into commitments up to the limit of my authority under that resolution, namely $50 million, to meet the most immediate and essential preparatory steps to support the establishment of UNAMID.

This amount, however, is insufficient to meet the resource requirements to establish the UNAMID operational capacity by 31 December 2007, and as an exceptional measure I intend to continue to provide substantial support to AMIS under the heavy support package provisions through the temporary use of the resources approved by the General Assembly for UNMIS for the 2007/08 financial period.

UNMIS would later be reimbursed by UNAMID upon approval of the UNAMID budget for the 2007/08 period. I informed the Advisory Committee on Administrative and Budgetary Questions on 24 April 2007 of these arrangements and the need to use the approved UNMIS resources for logistical and financial support flexibly for the implementation of the heavy support package pursuant to the request contained in a letter dated 17 April addressed to me by the President of the Security Council (S/2007/212).

I should be grateful if you would bring the measures set out above to the attention of Member States, for their consideration under item entitled "Financing of the African Union-United Nations Hybrid Operation in Darfur" allocated to the Fifth Committee of the General Assembly.

(*Signed*) **Ban** Ki-moon